

and at such other times as may be requested. Audit reports shall be based on audits performed by a certified public accountant, or by an independent public accountant licensed by a regulatory authority of a state or other political subdivision of the United States on or before December 31, 1970, and shall include:

(A) A financial statement in a form acceptable to the Secretary, including a balance sheet and a statement of operations and retained earnings, an analysis of the mortgagee's net worth adjusted to reflect only assets acceptable to the Secretary, and an analysis of escrow funds; and

(B) Such other financial information as the Secretary may require to determine the accuracy and validity of the audit report.

(ii) A mortgagee must submit a report on compliance tests prescribed by the Secretary.

(5) *Fidelity bond.* A Title II mortgagee shall have fidelity bond coverage and errors and omissions insurance acceptable to the Secretary and in an amount required by the Secretary, or alternative insurance coverage approved by the Secretary, that assures the faithful performance of the responsibilities of the mortgagee.

[62 FR 20082, Apr. 24, 1997, as amended at 62 FR 65182, Dec. 10, 1997; 63 FR 9742, Feb. 26, 1998; 63 FR 44361, Aug. 18, 1998]

§ 202.8 Loan correspondent lenders and mortgagees.

(a) Definitions.

Loan correspondent. (1) A loan correspondent lender does not hold a Title I Contract of Insurance and may not purchase or hold loans but may be approved to originate Title I direct loans for sale or transfer to a sponsor or sponsors which holds a valid Title I Contract of Insurance and is not under suspension.

(2) A loan correspondent mortgagee is a mortgagee that has as its principal activity the origination of mortgages for sale or transfer to its sponsor or sponsors or that meets the definition of a supervised mortgagee in § 202.6(a) but applies for approval as a loan correspondent mortgagee. A loan correspondent mortgagee may originate mortgages and submit applications for

mortgage insurance but it may not hold, purchase or service insured mortgages, except that a loan correspondent mortgagee meeting the definition of a supervised mortgagee in § 202.6(a) may service insured mortgages in its own portfolio.

Sponsor. (1) With respect to Title I programs, a sponsor is a lender that holds a valid Title I Contract of Insurance and meets the net worth requirement for the class of lender to which it belongs.

(2) With respect to Title II programs, a sponsor is a mortgagee which holds a valid origination approval agreement, is approved to participate in the Direct Endorsement program, and meets the net worth requirement for the class of mortgagee to which it belongs.

(b) *Additional requirements.* In addition to the general approval requirements in § 202.5, a loan correspondent lender or mortgagee shall meet the following requirements:

(1) *Net worth.* A loan correspondent lender or mortgagee shall have a net worth of not less than \$50,000 in assets acceptable to the Secretary, plus an additional \$25,000 for each branch office authorized by the Secretary, up to a maximum requirement of \$250,000, except that a multifamily mortgagee shall have a net worth of not less than \$250,000 in assets acceptable to the Secretary.

(2) *Notification.* A loan correspondent lender or mortgagee and each of its sponsors shall provide prompt notification to the Secretary if their loan correspondent agreement is terminated.

(3) *Audit report.* A loan correspondent lender or mortgagee shall file an audit report with the Secretary within 90 days of the close of its fiscal year (or within such extended time as may be granted by in the sole discretion of the Secretary), and at such other times as the Secretary may request, except that a loan correspondent mortgagee meeting the definition of § 202.6(a) need not file annual audit reports. Audit reports shall be based on audits performed by a certified public accountant, or by an independent public accountant licensed by a regulatory authority of a state or other political subdivision of the United States on or before December 31, 1970, and shall include:

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(i) A financial statement, in a form acceptable to the Secretary, including a balance sheet, statement of operations and retained earnings, an analysis of the net worth adjusted to reflect only assets acceptable to the Secretary and an analysis of escrow funds; and

(ii) Such other financial information as the Secretary may require to determine the accuracy and validity of the audit report.

(4) *Liquid assets.* A loan correspondent mortgagee shall maintain liquid assets consisting of cash or its equivalent acceptable to the Secretary in the amount of 20 percent of its net worth, up to a maximum liquidity requirement of \$100,000.

(5) A loan correspondent lender or mortgagee may sell or transfer loans or mortgages only to its sponsors, although a loan correspondent mortgagee may sell to a mortgagee that is not a sponsor with the Secretary's approval. There is no limitation on the number of sponsors that a loan correspondent lender or mortgagee may have and no limitation on the number of loan correspondents that a lender or mortgagee may sponsor.

(6) Each sponsor must obtain approval of its loan correspondent lenders or mortgagees from the Secretary.

(7) Each sponsor shall be responsible to the Secretary for the actions of its loan correspondent lenders or mortgagees in originating loans or mortgages, unless applicable law or regulation requires specific knowledge on the part of the party to be held responsible. If specific knowledge is required, the Secretary will presume that a sponsor has knowledge of the actions of its loan correspondent lenders or mortgagees in originating loans or mortgages and the sponsor is responsible for those actions unless it can rebut the presumption with affirmative evidence.

(8) A loan correspondent mortgagee shall comply with the warehouse line of credit requirements of § 202.7(b)(3)(ii), unless there is a written agreement by its sponsor to fund all mortgages originated by the loan correspondent mortgagee.

(9) For mortgages processed through Direct Endorsement under §§ 203.5 and 203.255(b) of this chapter, or through

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Lender Insurance under §§ 203.6 and 203.255(f) of this chapter, underwriting shall be the responsibility of the Direct Endorsement sponsor or Lender Insurance sponsor (respectively), and the mortgage shall be closed in the loan correspondent mortgagee's own name or the name of the sponsor that will purchase the loan. For mortgages not processed through Direct Endorsement or through Lender Insurance, the mortgage must be both underwritten and closed in the loan correspondent's own name.

(10) A loan correspondent lender shall close all loans in its own name prior to sale or transfer of the loans to its sponsor.

[62 FR 20082, Apr. 24, 1997, as amended at 62 FR 30225, June 2, 1997; 66 FR 56420, Nov. 7, 2001]

EFFECTIVE DATE NOTE: At 66 FR 56420, Nov. 7, 2001, § 202.8 was amended by revising paragraph (b)(1), effective May 7, 2002. For the convenience of the user, the revised text is set forth as follows:

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(b) * * *

(1) *Net worth.* A loan correspondent lender or mortgagee shall have a net worth of not less than \$63,000 in assets acceptable to the Secretary, plus an additional \$25,000 for each branch office authorized by the Secretary, up to a maximum requirement of \$250,000, except that a multifamily mortgagee shall have a net worth of not less than \$250,000 in assets acceptable to the Secretary.

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§ 202.9 Investing lenders and mortgagees.

(a) *Definition.* An investing lender or mortgagee is an organization that is not approved under any other section of this part. An investing lender or mortgagee may purchase, hold or sell Title I loans or Title II mortgages, respectively, but may not originate Title I loans or Title II mortgages in its own name or submit applications for the insurance of mortgages. An investing lender or mortgagee may not service Title I loans or Title II mortgages